

04/13/2021

U.S. DISTRICT  
COURT  
EASTERN  
DISTRICT OF  
NEW YORK  
BROOKLYN  
OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

18 CR 393 (SJ) (RML)

-against-

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION

BERNARD RAYMOND AUGUSTINE,

Defendant.

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**JOHNSON, Senior District Judge:**

Presently before the Court is a Report and Recommendation ("Report") prepared by Magistrate Judge Robert M. Levy recommending, *inter alia*, that defendant's motion for a bill of particulars be denied.<sup>1</sup> (Dkt. No. 83). Defendant Bernard Augustine ("Defendant") timely objected and the government timely replied to the Report. (Dkt. Nos. 86, 97, & 98). For the reasons stated herein, this Court affirms and adopts this recommendation.

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<sup>1</sup> The Court also referred defendant's motions to dismiss the indictment and to compel to Judge Levy. The Report and Recommendation considered the motions together, but the Court addresses them separately. In addition, the Court referred Defendant's motion to suppress statements made while in the custody of the Tunisian government. Due to the ongoing COVID-19 pandemic, the suppression hearing has been continued and no findings have been made at this time.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within fourteen days of service of the recommendation, any party may file written objections to the magistrate's report. *See id.* Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. *See id.*

However, “[w]hen a party makes only conclusory, or general objections, or simply reiterates the original arguments, the Court will review the report strictly for clear error.” *Frankel v. City of New York*, 2009 WL 465645, at \*2 (E.D.N.Y. Feb. 25, 2009) (collecting cases); *Camardo v. General Motors Hourly-Rate Employees Pension Plan*, 806 F. Supp. 380, 382 (W.D.N.Y. 1992) (“It is improper for an objecting party to attempt to relitigate the entire content of the hearing before the Magistrate Judge by submitting papers to a district court which are nothing more than a rehashing of the same arguments and positions taken in the original papers.”).

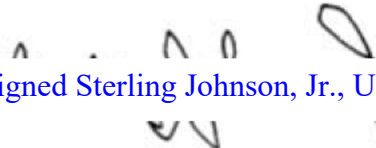
In this case, Defendant objected to Judge Levy's denial of the motion for a bill of particulars. (Dkt. Nos. 86 & 98). Review of those documents reveal

that Defendant relied upon arguments and alleged facts already presented and rejected by Judge Levy.

Upon review of the report, this Court finds no clear error. The government's indictment and discovery "advise [] defendant of the specific acts of which he is accused." *United States v. Chen*, 378 F.3d 151, 163 (2d Cir. 2004) (citation omitted). Accordingly, a bill of particulars is not warranted. The Court adopts and affirms Magistrate Judge Levy's recommendation and defendant's motion for a bill of particulars is DENIED.

SO ORDERED.

Dated: April 13, 2021  
Brooklyn, NY



signed Sterling Johnson, Jr., U.S.D.J.  
Sterling Johnson, Jr., U.S.D.J.